

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1631 of 2014

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Urmila Devi

.... Petitioner/s

Versus

Ram Lakhan Dubey & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal

For the Respondent/s : Mr. Gp-23 Anil Kumar

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR
SAHOO
ORAL ORDER

- 2 10-12-2015 1. Heard the learned counsel, Mr. Bajrangilal, for the petitioner and the learned A.C. to G.P.23 for the State-respondent.
2. The grievance of the petitioner is that although he had filed an application under Order I Rule 10 CPC for being added as party in Land Acquisition Case No.19 of 1994, the said L.A. case was referred to Lok Adalat wherein the same has been disposed of by the Award passed by Lok Adalat.
3. The learned counsel for the petitioner submitted that the grand father of the petitioner was original applicant with the other co-sharer and on their application under Section 18 of the Land Acquisition Act, the matter was referred to Land Acquisition Judge. The grand father who was co-applicant died and the other co-sharer filed a fraudulent application for deleting the name of the grand father of the petitioner on the ground that he died

without any legal heir and got his name deleted. In such circumstances, the petitioner was necessary party under Land Acquisition Act and is entitled for a share in the property. Further, at the time of the order deleting the name of the grand father of the petitioner, the father of the petitioner was also alive but he was also not substituted.

4. On the other hand, the learned counsel for the State submitted that this question raised by the petitioner cannot be investigated in this application under Article 227 of the Constitution of India.

5. As has been submitted by the learned counsels for the petitioner, the co-applicant, Ram Lakhan Dubey, filed the application that Ram Sinhasan Dubey died leaving behind no heir, therefore, his name was deleted in the suit. Although the application under Order I Rule 10 CPC was filed by the petitioner, no final order was passed by the Court and in the meantime, the suit was transferred to the Lok Adalat for decision on the basis of compromise which was accordingly compromised and Award was passed by the Lok Adalat.

6. So far the points raised by the petitioner that she is the grand daughter of Ram Sinhasan Dubey or that her father was

alive or that petitioner has a share in the compensation amount is concerned, all these matters are disputed questions of fact. The same can be gone into only by a properly constituted suit because the co-applicant had filed the application saying that Ram Sinhasan Dubey died leaving behind no heir. The heirship, therefore, is involved in this matter. In such circumstances, the relief claimed by the petitioner cannot be granted in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. However, if so advised the petitioner may approach the Civil Court for appropriate relief.

7. Accordingly, this writ application is dismissed.

(Mungeshwar Sahoo, J)

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